THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.19833 of 1997

ORAL ORDER:

This writ petition is filed seeking a Mandamus declaring the action of the respondents in applying circular guidelines Ref.No.BDL/04/51/006/C-P&A dated 14.7.1996 issued by the first respondent and reducing the terminal benefits due to the petitioner by treating the period of unauthorized absence as break in service, as arbitrary and illegal.

It appears, petitioner while serving the Respondent Organisation, was issued with a charge sheet dated 22.5.1996 and thereafter, disciplinary proceedings were concluded and ultimately, the petitioner was imposed with punishment of reduction of pay scale by two incremental stages. Thus, the basic pay of the petitioner was re-fixed at Rs.3,235/-with effect from 30.1.1997. Thereafter, the petitioner took voluntary retirement on medical grounds and he was relieved, as such, with effect from 31.1.1997. His terminal benefits were paid, but unfortunately, the period during which he was absent i.e. 1.1.1996 to 17.5.1996 and the period of absence during 1994-95 was treated as break in service for the purpose of granting terminal benefits.

According to the respondents, they are entitled to treat the absence period of the petitioner as break in service as per circular dated 14.7.1996.

As seen from the above, as a measure of disciplinary proceedings, he was imposed with punishment of stoppage of two increments. Once this is so, the question of applying circular dated 14.7.1996 does not arise. May be, the circular dated 14.7.1996 can be applied in a case where there are no disciplinary proceedings conducted. In this case, the petitioner was imposed with a punishment of stoppage of two increments after conducting a regular enquiry and the petitioner ultimately took voluntary retirement w.e.f. 31.1.1997 and thereafter, when his retiral benefits were sought to be

paid, circular dated 14.7.1996 was applied. I am of the opinion that such a course of action is not available to the respondents to apply the circular dated 14.7.1996 in a case of this nature. Further, such a punishment i.e. treating the period of absence as break in service was not imposed on the petitioner.

For all the reasons, the respondents are directed to treat the period of unauthorised absence of the petitioner as not break in service and compute all the terminal benefits as per law and pay the same to the petitioner forthwith.

The writ petition is accordingly allowed. No order as to costs.

_____

C.V.RAMULU, J

Date: 21.2.2007

DA

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.19833 of 1997

21.2.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.19833 of 1997

Date: 21st February, 2006

Between:

T.Satyanarayana

.. Petitioner

And

Bharat Dynamics Limited,
Kanchan Bagh, Hyderabad & another.

.. Respondents